

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 153

Session of
1987

INTRODUCED BY HESS AND ROCKS, JANUARY 15, 1987

REFERRED TO EDUCATION, JANUARY 15, 1987

AN ACT

1 Amending the act of March 10, 1949 (P.L.30, No.14), entitled "An
2 act relating to the public school system, including certain
3 provisions applicable as well to private and parochial
4 schools; amending, revising, consolidating and changing the
5 laws relating thereto," further providing for the education
6 of exceptional children in approved institutions; and making
7 an appropriation.

8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

10 Section 1. Section 1376 of the act of March 10, 1949
11 (P.L.30, No.14), known as the Public School Code of 1949,
12 amended December 20, 1983 (P.L.267, No.73), is amended to read:

13 Section 1376. Cost of Tuition and Maintenance of Certain
14 Exceptional Children in Approved Institutions.--(a) When any
15 child between the ages of six (6) and twenty-one (21) years of
16 age and resident in this Commonwealth, who is blind or deaf, or
17 afflicted with cerebral palsy and/or brain damage and/or
18 muscular dystrophy and/or mentally retarded and/or socially and
19 emotionally disturbed, is enrolled, with the approval of the
20 Department of Education, as a pupil in an approved school for

1 the blind or deaf, or cerebral palsied and/or brain damaged
2 and/or muscular dystrophied and/or mentally retarded, and/or
3 socially and emotionally disturbed, approved by the Department
4 of Education, in accordance with standards and regulations
5 promulgated by the Council of Basic Education, the school
6 district in which such child is resident shall pay twenty per
7 centum (20%) of the actual audited cost of tuition and
8 maintenance of such child in such school, as determined by the
9 Department of Education; and the Commonwealth shall pay, out of
10 funds appropriated to the department for special education,
11 eighty per centum (80%) of the cost of their tuition and
12 maintenance, as determined by the Department. If the residence
13 of such child in a particular school district cannot be
14 determined, the Commonwealth shall pay, out of moneys
15 appropriated to the department for special education, the whole
16 cost of tuition and maintenance of such child. The Department of
17 Education shall be provided with such financial data from
18 approved schools as may be necessary to determine the
19 reasonableness of costs for tuition and room and board
20 concerning Pennsylvania resident approved reimbursed students.
21 The Department of Education shall evaluate such data and shall
22 disallow any cost deemed unreasonable. Any costs deemed
23 unreasonable by the Department of Education for disallowance
24 shall be considered an adjudication within the meaning of Title
25 2 of the Pa.C.S. (relating to administrative law and procedure)
26 and regulations promulgated thereunder.

27 (b) When any person less than six (6) or more than twenty-
28 one (21) years of age and resident in this Commonwealth, who is
29 blind or deaf, or afflicted with cerebral palsy and/or brain
30 damage and/or muscular dystrophy, is enrolled, with the approval

1 of the Department of Education, as a pupil in an approved school
2 for the blind or deaf, or cerebral palsied and/or brain damaged
3 and/or muscular dystrophied, approved by the Department of
4 Education, the Commonwealth shall pay to such school, out of
5 moneys appropriated to the department for special education, the
6 actual audited cost of tuition and maintenance of such person,
7 as determined by the Department of Education, subject to review
8 and approval in accordance with standards and regulations
9 promulgated by the Council of Basic Education, and in addition,
10 in the case of any child less than six (6) years of age, who is
11 blind, the cost, as determined by the Department of Education of
12 instructing the parent of such blind child in caring for such
13 child.

14 (c) Each approved school, prior to the start of the school
15 year, shall submit to the department such information as the
16 department may require in order to establish an estimate of
17 reimbursable costs. [Based upon this information, any other data
18 deemed necessary by the department and in accordance with
19 department standards, the department shall develop for each
20 approved school an estimate of reimbursable costs. Based upon
21 such estimate, the department shall provide each approved school
22 with quarterly payments in advance of department audit. The
23 department may withhold a portion of such payments not exceeding
24 five percent (5%) of such payment, pending final audit. In no
25 event shall either the advance payments or final reimbursement
26 made by the department following audit exceed the appropriation
27 available for approved schools.] The department shall enter into
28 an agreement with each approved school prior to the school year.
29 Such agreement shall set forth an estimate of reimbursable costs
30 based on audit standards promulgated by the department and the

1 estimate of daily average attendance. Based upon such estimate,
2 the department shall provide each approved school with quarterly
3 payments in advance of final department audit. The audit
4 standards, promulgated by the department, shall specify as
5 reasonable any cost allowed publicly operated education
6 programs. In addition, the audit standards shall specify as
7 reasonable, costs associated with the operation of a private
8 nonprofit business to the extent that such costs are related to
9 the educational program offered (such as director's liability
10 insurance; interest on money borrowed to operate the
11 instructional program necessary to meet the requirements of an
12 approved school). The department may withhold a portion of the
13 advance quarterly payments. However, in no case shall such
14 withheld money exceed in total for any one (1) year or a
15 combination of years, a sum equal to five per cent (5%) of the
16 most recent year's agreement of estimated reimbursable costs and
17 an amount not to exceed fifty per cent (50%) of any outstanding
18 audit exception. In no event shall either the advance payments
19 or final reimbursements made by the department following the
20 final audit exceed the appropriation available for approved
21 schools.

22 (d) No private institution receiving payment in accordance
23 with this section shall impose any charge on the student and/or
24 parents who are Pennsylvania approved reimbursable residents for
25 a program of individualized instruction and maintenance
26 appropriate to the child's needs; except that charges for
27 services not part of such program may be made if agreed to by
28 the parents.

29 (e) Any private institution or approved school refusing to
30 cooperate with the Department of Education's audit process shall

1 be ineligible for the ceiling withholding limitation provided in
2 subsection (c).

3 Section 2. The sum of \$3,000,000, or as much thereof as may
4 be necessary, is specifically appropriated to the Department of
5 Education for fiscal year July 1, 1986, to June 30, 1987, for
6 carrying out the purposes of section 1376 of the act of March
7 10, 1949 (P.L.30, No.14), known as the Public School Code of
8 1949. This appropriation shall be in addition to any sums
9 appropriated for similar purposes under the act of July 1, 1986
10 (P.L. , No.5A), known as the General Appropriation Act of
11 1986.

12 Section 3. Section 1 of this act applies to the school year
13 1987-1988 and each year thereafter.

14 Section 4. This act shall take effect as follows:

15 (1) Section 1 of this act shall take effect July 1,
16 1987.

17 (2) The remainder of this act shall take effect
18 immediately.